IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5065 OF 2005

Sou. Hirabai Rajaram Vitakar ...Applicant
vs.
State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO.5066 OF 2005

Kiran Rajaram Vitakar ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.R.V.More for the Applicants
Ms M.M.Deshmukh,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 16,2005

P.C.:

1. Heard Shri More for the Applicant in both the Applications and the learned A.P.P. for the State. Shri More submitted that apart from other facts there is a gross delay in filing the F.I.R. He submitted that other co-accused have been granted anticipatory bail by the Sessions Court. He invited my attention to the paragraph No.14 of the order dated 26th July 2005 passed by the Sessions Court and submitted that the Applicants are entitled to relief on the basis of parity.

2. The learned A.P.P. for State pointed out that there are specific allegations made against the Applicant in Criminal Application No.5065/2005 as regards offence under section 313 of Code of Criminal Procedure, 1973. The said applicant has signed the consent form as a witness on the basis of which procedure for termination of pregnancy was carried out. The

learned A.P.P. has invited my attention to the allegations made in the last paragraph of the F.I.R. by the complainant and submitted that in view of the said allegations custodial interrogation of the Applicant is required.

3. The date of termination of pregnancy of the complainant is 17th November 2003. The offence has been registered in the year 2005. In so far as the allegations made in the last paragraph of the F.I.R. filed by the complainant are concerned, it appears that identical allegations have been made not only against the Applicant but against the father-in-law, brother-in-law and sister-in-law of the complainant. The said accused have been granted relief of anticipatory bail by the Sessions Court by order dated 26th July 2005.

4. Perusal of the F.I.R. shows that there is no material difference between the role ascribed to the father-in-law of the complainant and the present Applicants. The father-in-law has been granted anticipatory bail by the Sessions Court. In view of this position, the Applicants are also entitled to anticipatory on bail.

5. Hence I pass the following order :

i) In the event of the arrest of the Applicants in connection

with C.R.No.151/2005 registered with Pandharpur Police Station, District Solapur the Applicants shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.15,000/- (Rupees fifteen thousand only) each with one or two sureties each in the like amount.

ii) The Bail is granted subject to condition that the Applicants will attend the concerned Police Station as and when called upon to do so till filing of the charge sheet and will cooperate for the purposes of investigation.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/investigating agency. The Applicants shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicants only till charge sheet is filed. Thereafter,they will be free to apply to the appropriate Court for appropriate relief.

vi) Application is disposed of in above terms.

vii) Parties to act upon an authenticated copy of this order.

JUDGE